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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91196926
Party	Plaintiff GMA Accessories, Inc.
Correspondence Address	Jeffrey I. Scott BOSTANY LAW FIRM PLLC 75 Wall Street - Suite 24F NEW YORK, NY 10005 UNITED STATES mail@bozlaw.com
Submission	Reply in Support of Motion
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Date	06/28/2011
Attachments	Reply.brief.06.28.11.pdf (6 pages)(212415 bytes) Reply.declaration.06.28.11.pdf (6 pages)(220429 bytes) EXHIBIT A.pdf (2 pages)(225197 bytes) EXHIBIT B.pdf (2 pages)(204258 bytes) EXHIBIT C.pdf (2 pages)(173987 bytes) EXHIBIT D.pdf (2 pages)(351417 bytes) EXHIBIT E.pdf (2 pages)(442410 bytes) EXHIBIT F.pdf (2 pages)(199220 bytes) EXHIBIT G.pdf (2 pages)(191927 bytes) Proof.of.Service.06.28.11.pdf (1 page)(17627 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
GMA ACCESSORIES, INC.,

Opposer,

Opposition No.: 91196926

against –

**REPLY BRIEF IN SUPPORT OF
MOTION TO DISMISS
COUNTERCLAIM**

DORFMAN-PACIFIC CO.,

Applicant.
-----X

Mark: CAPPELLI STRAWORLD
Serial No.: 77-965, 616
Class (es): 18, 25

ARGUMENT

I. Dorfman lacks standing to seek cancellation of CAPELLI since it fails identify how GMA's mark caused it damages.

Dorfman lacks standing to seek cancellation of CAPELLI in any class. See *Young v. AGB Corp.* 47 USPQ 2d 1752 (CAFC 1998) (affirming the Board's dismissal of a pleading that set forth a mere statement of economic damage without alleging how the alleged conduct caused the Opposer damage.")

Dorfman makes the conclusory statement that damages are shown by its predecessor's use of the marks CAPPELLI and CAPPELLI STRAWORLD, INC. Dorfman fails to explain how this allegation shows that Opposer's conduct caused it economic damage which it does not dispute is required. Indeed the Dorfman assertion is not even a statement of economic damage. Moreover, Dorfman fails to explain how its attempt to introduce a dispute over dates of use creates damages or standing.

Therefore, because Dorfman fails to identify how GMA's registration of CAPELLI caused it damage, the applicant lacks standing and all counterclaims should be summarily dismissed.

II. Even if Dorfman had standing its Counterclaims must be dismissed for failure to state a claim.

Dorfman argues that its Counterclaims should survive a motion to dismiss because they allege valid, statutory grounds for canceling GMA's trademark registrations. Dorfman-Pacific's Memorandum in Opposition to Motion to Dismiss Counterclaim, p.6. However, Dorfman is required to do more than just merely identify statutory grounds.

To survive a motion to dismiss, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Juniper Networks, Inc. v. Shirpley*, 2011 WL 1601995 (Fed. Cir. 2011) quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim "has facial plausibility when the plaintiff pleads factual content that allows the court to draw a reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 129 S.Ct 1937, 1949 (2009) (dismissing complaint for failing to plead sufficient facts to state a claim). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.*

In the present case, since the counterclaims are based on four grounds that are alleged in a conclusory fashion, Dorfman's Counterclaims cannot survive this motion to dismiss.

A. Dorfman fails to identify how the CAPELLI mark is merely descriptive or generic.

In its opposition, Dorfman fails to respond to the legal and factual reality set forth in the moving papers, i.e. that CAPELLI is not as a matter of law descriptive of GMA's products in Classes 14, 24, 09, 25, 03 and 28.¹ See current title and status of registrations annexed to the accompanying declaration as **Exhibit A, B, C, D, E, F and G**. Dorfman baldly asserts that "mere descriptiveness is one of the statutory grounds for cancellation." Memorandum in Opposition, p.8.

Courts have only held a mark to be descriptive where it conveys immediate idea of ingredients, qualities, or characteristics of the goods. See *General Mills, Inc. v. Kellogg Co.*, 824 F.2d 622 (8th Cir 1987) (holding the mark APPLE CRISP is merely descriptive of the characteristics of the breakfast cereal product); *Talk To Me Products, Inc. v. Larami Corp.*, 804 F.Supp. 555(SDNY 1992) (holding the mark SUPER SOAKER is merely descriptive of the use and purpose of the water gun product). *Bristol-Myers Squibb Co. v. McNeil-P.P.C., Inc.*, 973 F.2d 1033 (2d Cir 1992) (holding the PM designator in the mark TYLENOL PM was descriptive of the purpose of the sleeping aid product); *Elizabeth Taylor Cosmetics Co. v. Annick Goutal, S.A.R.L.*, 677 F.Supp. 144 (SDNY 1987)(holding the mark PASSION is not descriptive of fragrance advertising; rather it is suggestive of the emotion the fragrance seeks to induce); *Thermogene Co. v. Thermozone Co.*, 234 F.2d 69(2d Cir 1956)(holding the mark THEMOGEN, the Greek word for 'caloric', is descriptive).

¹ Dorfman incorrectly stated in its Opposition that according to GMA, the word "capelli" is an Italian word for "hat." Nor has Dorfman attempted to explain how the word hat would be descriptive of GMA's products. GMA has maintained in all of its registrations that the word "capelli" is an Italian word meaning "hair."

Here, once again Dorfman does not even attempt to identify how the mark CAPELLI, or the English translation of hair, describes the ingredients, qualities, characteristic or function of GMA's products. Thus, even if Dorfman had standing to assert this claim which we maintain it did not, the counterclaim should also be decided as a matter of law in favor of GMA under Rule 12(b)(6).

B. Dorfman fails to state a valid claim of abandonment.

GMA asserted in its Motion to Dismiss that Dorfman failed to state a valid claim of abandonment because it did not plead as required either "cessation of commercial use" or an "intent not to resume such use." GMA's Moving Brief, Point IV on p.9. Rather than address these fatal insufficiencies in its Opposition, Dorfman merely alleges that abandonment is a valid statutory ground. Memorandum in Opposition, p.9. Because Dorfman fails to set forth a valid claim of abandonment or address its failure to plead a proper basis for abandonment, this claim must be dismissed as a matter of law.

C. Dorfman fails to identify any recognizable basis for its allegation of fraud.

Applicant Dorfman-Pacific Co. (hereinafter "Dorfman") supports its allegation of fraud by stating:

...It appears highly implausible that opposer has actually used its alleged mark in association with each and every one of the goods described in the alleged registrations...

See Dorfman-Pacific's Memorandum in Opposition, p.8. Dorfman, however, provides no legal support for this unique basis and we have been unable to uncover a single case which uses plausibility as a basis for a fraud allegation. Under the settled

standard outlined in Point V of Opposer's Moving Brief, Dorfman's counterclaim alleging fraud must be dismissed as a matter of law.

III. The Declaration of Jeffrey Scott should not be stricken or disregarded.

Dorfman asserts that the Board should strike and disregard my Declaration filed in support of Opposer's Motion to Dismiss because (1) it is unrelated to the sufficiency of the pleadings, (2) my testimony relates to matters beyond my personal knowledge, and (3) it contains legal argument and factual speculation. Dorfman-Pacific's Memorandum in Opposition to Motion to Dismiss Counterclaim, p.9. The Declaration however is solely related to the insufficiency of Applicant's pleadings. Moreover, I did not provide testimony or express any opinions in this Declaration. Rather, I only cited dates and provided information obtained from the USPTO website, pleadings, and registrations. Therefore, because the Declaration is entirely relevant to the present motion, it should not be stricken.

CONCLUSION:

For the foregoing reasons, the Applicant's counterclaims for cancellation of Opposer's trademark registrations should be dismissed.

Dated: New York, NY
June 28, 2011

Respectfully submitted,
THE BOSTANY LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'Jeffrey Scott', is written over a horizontal line.

By: Jeffrey Scott
Attorneys for Opposer
75 Wall Street
New York, New York 10005
(212) 530-4400

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
GMA ACCESSORIES, INC.,

Opposer,

Opposition No.: 91196926

against –

REPLY DECLARATION

DORFMAN-PACIFIC CO.,

Applicant.
-----X

Mark: CAPPELLI STRAWORLD

Serial No.: 77-965, 616

Class (es): 18, 25

JEFFREY SCOTT hereby declares, under penalty of perjury pursuant to 28

U.S.C. § 1746, as follows:

1. I am an attorney at Bostany Law Firm, PLLC, Attorneys for the Opposer, and as such I am fully familiar with the facts of the case.
2. I make this declaration based on my review of the file maintained in this Firm's office and in reply to Applicant's opposition to the Motion to Dismiss Counterclaims.
3. Annexed as Exhibit A is the current title and status of Registration # 3,248,875 for the mark CAPELLI in International Class 25:
 - a. Bandanas; Bathrobes; Beach footwear; Beachwear; Belts; Berets; Blazers; Blouses; Body suits; Boots; Clothing, namely, knee warmers; Clothing, namely, wrap-arounds; Coats; Cravats; Ear muffs; Earbands; Embossed soles and heels of rubber or of plastic materials; Fabric belts; Fleece pullovers; Flip flops; Footwear; Foul weather gear; Fur cloaks; Fur

coats and jackets; Fur jackets; Fur muffs; Galoshes; Gloves; Gowns; Hoods; Hosiery; Housecoats; Infant and toddler one piece clothing; Infant sleepers; Infants' shoes and boots; Infants' trousers; Infantwear; Jackets; Jerseys; Jogging pants; Knee-high stockings; Lace boots; Ladies' boots; Leather belts; Leather shoes; Leg shapers; Leg warmers; Leggings; Leotards; Light-reflecting jackets; Lingerie; Long sleeved vests; Loungewear; Men's socks; Mittens; Moccasins; Mufflers; Neck bands; Neck gaiters; Neckerchiefs; Neckwear; Night gowns; Night shirts; Nightdresses; Nighties; Nightwear; One piece garment for infants and toddlers; Open-necked shirts; Pajamas; Parkas; Pullovers; Rain boots; Rain coats; Rain jackets; Rain suits; Rainproof jackets; Rainwear; Riding boots; Robes; Rubber shoes; Rubbers; Sashes; Scarves; Shawls; Shirts; Shoes; Short-sleeved shirts; Sleep shirts; Sleeping garments; Sleepwear; Sleeved or sleeveless jackets; Slippers; Socks and stockings; Suede jackets; Tank tops; Tights; V-neck sweaters; Vests; Wind coats; Wind resistant jackets; Women's shoes; Woollen socks; Wraps.

4. Annexed as Exhibit B is the current title and status of Registration # 3,258,734 for the mark CAPELLI in International Class 03:

a. Blush pencils; Body creams; Body emulsions; Body lotions; Body powder; Bubble bath; Cologne; Compacts containing make-up; Cotton for cosmetic purposes; Eau de cologne; Eau de perfume; Eau de toilette; Eye lotions; Eye make-up; Eye pencils; Eye shadows; Face and body creams; Face and body glitter; Facial cleansers; Facial creams; Facial make-up; Facial

washes; False nails; Foam bath; Lip balm; Lip gloss; Lipstick; Lipstick cases; Lipstick holders; Make-up; Mouthwashes; Nail care preparations; Nail glitter; Nail polish; Perfumes; Skin creams; Skin lotions; Teeth cleaning lotions; Tooth cleaning preparations; Tooth polish; Toothpaste.

5. Annexed as Exhibit C is the current title and status of Registration # 3,246,017 for the mark CAPELLI in International Class 09:

a. Anti-glare glasses; Anti-reflective lenses; Beeper carrying cases; Binoculars; Cases for mobile phones; Cases for spectacles and sunglasses; Children's eye glasses; Decorative magnets; Eyeglass chains; Eyeglasses; Frames for eyeglasses and pince-nez; Frames for spectacles and sunglasses; Laptop carrying cases; Lenses for sunglasses; Magnifying glasses; Ski glasses; Sports eyewear; Sports glasses; Sunglasses.

6. Annexed as Exhibit D is the current title and status of Registration # 3,273,451 for the mark CAPELLI in International Class 28:

a. Bath toys; Bathtub toys; Bean bag dolls; Bean bags; Bendable toys; Cases for play accessories; Children's play cosmetics; Dolls and accessories therefor; Drawing toys; Inflatable mattresses for recreational use; Inflatable toys; Novelty items, namely, fake teeth; Parafoils; Party favors in the nature of small toys; Play figures; Play houses; Play tents; Plush toys; Sand toys; Sport balls; Squeeze toys; Stuffed toys; Swim floats for recreational use; Toy artificial fingernails; Toy bakeware and

cookware; Toy boxes; Toy clocks and watches; Toy film cartridges and viewers; Toy furniture; Toy houses.

7. Annexed as Exhibit E is the current title and status of Registration #3,241,184 for the mark CAPELLI in International Class 24:

a. Bath linen; Bath sheets; Bath towels; Beach towels; Bed blankets; Bed linen; Bed sheets; Bed spreads; Blanket throws; Chenille fabric; Children's blankets; Children's towels; Cloth coasters; Cloth napkins for removing make-up; Comforters; Contoured mattress covers; Cotton base mixed fabrics; Cotton fabric; Covered rubber yarn fabrics; Crepe cloth; Crib bumpers; Crib canopies; Curtain fabric; Curtain loops of textile material; Curtains; Curtains made of textile fabrics; Diaper changing mats; Diaper changing pads not of paper; Dining linens; Dish cloths; Draperies; Dust ruffles; Duvet covers; Duvets; Eiderdown covers; Eiderdowns; Fabric diaper stackers; Fabric flags; Fabric for boots and shoes; Fabric of imitation animal skin; Fabric table runners; Fabric table toppers; Fabric valances; Fabric window coverings and treatments, namely curtains, draperies, sheers, swags and valances; Face towels; Feather beds; Felt and non-woven textile fabrics; Fiberglass fabrics for textile use; Fireproof upholstery fabrics; Fitted toilet lid covers; Flannel; Flax fabrics; Frieze; Gauze fabric; Gift wrap of fabric; Hand towels; Hand-towels made of textile fabrics; Hemp base mixed fabrics; Hemp yarn fabrics; Household linen; Inorganic fiber mixed fabrics; Jeans fabric; Jersey fabrics for clothing; Jersey material; Jute fabrics; Kitchen linens; Kitchen towels;

Knitted fabrics; Knitted fabrics of chemical-fiber yarn; Knitted fabrics of cotton yarn; Knitted fabrics of wool yarn; Labels of cloth; Lap rugs; Mixed fiber fabrics; Narrow woven fabrics; Net curtains; Nylon fabric; Oil cloths; Pillow cases; Pillow covers; Pillow shams; Pillowcases; Place mats of textile material; Polyester fabric; Pot holders; Puffs; Quilts; Ramie fabric; Rayon fabric; Receiving blankets. Regenerated fiber yarn fabrics; Rubberized cloths; Sackcloth; Sail cloth; Semi-synthetic fiber fabrics; Shams; Shower curtains; Silk-cotton mixed fabrics; Synthetic fiber fabrics; Table cloths not of paper; Table linen; Taffeta; Tapestries of textile; Terry towels; Textile fabric of animal skins imitations; Textile fabrics for home and commercial interiors; Textile fabrics for lingerie; Textile fabrics for the manufacture of clothing; Textile labels; Throws; Ticking fabric; Towel sets; Towels; Traced cloths for embroidery; Tricot quilts; Tulle; Unfitted fabric furniture covers; Upholstery fabrics; Velvet; Wash cloths; Washcloths; Washing gloves; Washing mitts; Window curtains; Wool base mixed fabrics; Wool yarn fabrics; Woolen fabric; Woollen blankets; Worsted fabrics; Woven fabrics; Zephyr fabric.

8. Annexed as Exhibit F is the Current title and status of Registration # 3,322,312 for the mark CAPELLI in International Class 26:

- a. Barrettes; Basket clasps; Belt buckles not of precious metal; Belt clasps; Bobbin lace; Bobby pins; Bonnet pins; Brooches; Eyelets; Fabric tissue box covers; Hair accessories, namely, claw clips; Hair accessories, namely, snap clips; Hair accessories, namely, twistors; Hair bands; Hair

bows; Hair buckles; Hair clips; Hair curl clips; Hair ornaments; Hair pins;
Hair ribbons; Hair scrunchies; Hat ornaments not of precious metal; Lace;
Ornamental ribbons made of textiles; Ponytail holders.

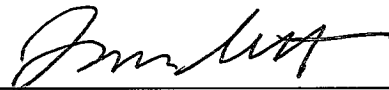
9. Annexed as Exhibit G is the current title and status of Registration # 3,241,182
for the mark CAPELLI in International Class 14:

- a. Bracelets; chokers; clocks; costume jewelry; earrings; gemstones; gold
and its alloys; jewel chains; jewelry; jewelry chains; jewelry for the head;
neck chains; necklaces; ornamental pins; picture frames of precious
metal; precious gemstones; rings being jewelry; semi-precious
gemstones; silver and its alloys; watches.

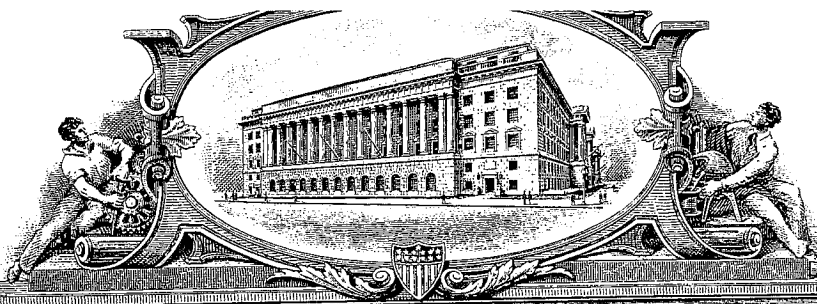
WHEREFORE it is respectfully requested that Applicant's counterclaims for cancellation
of Opposer's trademark registrations be dismissed.

Dated: New York, NY
June 28, 2011

Respectfully submitted,
THE BOSTANY LAW FIRM, PLLC



By: Jeffrey Scott
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New York, New York 10005
(212) 530-4400



THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:
UNITED STATES DEPARTMENT OF COMMERCE**

United States Patent and Trademark Office

June 22, 2011

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REGISTERED FOR A TERM OF 10 YEARS FROM *June 05, 2007*

SAID RECORDS SHOW TITLE TO BE IN:

GMA ACCESSORIES, INC.

A NEW YORK CORPORAION

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office


P. R. GRANT
Certifying Officer



Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,248,875

Registered June 5, 2007

TRADEMARK
PRINCIPAL REGISTER

CAPELLI

GMA ACCESSORIES, INC. (NEW YORK CORPORATION)
1 EAST 33RD STREET
NEW YORK, NY 10016

FOR: BANDANAS; BATHROBES; BEACH FOOTWEAR; BEACHWEAR; BELTS; BERETS; BLAZERS; BLOUSES; BODY SUITS; BOOTS; CLOTHING, NAMELY, KNEE WARMERS; CLOTHING, NAMELY, WRAP-AROUNDS; COATS; CRAVATS; EAR MUFFS; EARBANDS; EMBOSSED SOLES AND HEELS OF RUBBER OR OF PLASTIC MATERIALS; FABRIC BELTS; FLEECE PULLOVERS; FLIP FLOPS; FOOTWEAR; FOUL WEATHER GEAR; FUR CLOAKS; FUR COATS AND JACKETS; FUR JACKETS; FUR MUFFS; GALOSHES; GLOVES; GOWNS; HOODS; HOSIERY; HOUSECOATS; INFANT AND TODDLER ONE PIECE CLOTHING; INFANT SLEEPERS; INFANTS' SHOES AND BOOTS; INFANTS' TROUSERS; INFANTWEAR; JACKETS; JERSEYS; JOGGING PANTS; KNEE-HIGH STOCKINGS; LACE BOOTS; LADIES' BOOTS; LEATHER BELTS; LEATHER SHOES; LEG SHAPERS; LEG WARMERS; LEGGINGS; LEOTARDS; LIGHT-REFLECTING JACKETS; LINGERIE; LONG SLEEVED VESTS; LOUNGEWEAR; MEN'S SOCKS; MITTENS; MOC-CASINS; MUFFLERS; NECK BANDS; NECK GAITERS; NECKERCHIEFS; NECKWEAR; NIGHT GOWNS; NIGHT SHIRTS; NIGHTDRESSES; NIGHT-

IES; NIGHTWEAR; ONE PIECE GARMENT FOR INFANTS AND TODDLERS; OPEN-NECKED SHIRTS; PAJAMAS; PARKAS; PULLOVERS; RAIN BOOTS; RAIN COATS; RAIN JACKETS; RAIN SUITS; RAINPROOF JACKETS; RAINWEAR; RIDING BOOTS; ROBES; RUBBER SHOES; RUBBERS; SASHES; SCARVES; SHAWLS; SHIRTS; SHOES; SHORT-SLEEVED SHIRTS; SLEEP SHIRTS; SLEEPING GARMENTS; SLEEPWEAR; SLEEVED OR SLEEVELESS JACKETS; SLIPPERS; SOCKS AND STOCKINGS; SUEDE JACKETS; TANK TOPS; TIGHTS; V-NECK SWEATERS; VESTS; WIND COATS; WIND RESISTANT JACKETS; WOMEN'S SHOES; WOOLLEN SOCKS; WRAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-1-1991; IN COMMERCE 12-18-1991.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE FOREIGN WORDING IN THE MARK TRANSLATES INTO ENGLISH AS HAIR.

SER. NO. 77-041,971, FILED 11-11-2006.

TASNEEM HUSSAIN, EXAMINING ATTORNEY



THE UNITED STATES OF AMERICA

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United States Patent and Trademark Office

June 16, 2011

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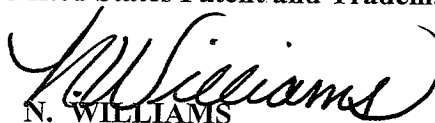
REGISTERED FOR A TERM OF 10 YEARS FROM *September 03, 2007*

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GMA ACCESSORIES, INC.

A NEW YORK CORPORATION

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N. WILLIAMS

Certifying Officer



Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,258,734

Registered July 3, 2007

TRADEMARK
PRINCIPAL REGISTER

CAPELLI

GMA ACCESSORIES, INC. (NEW YORK CORPORATION)
1 EAST 33RD STREET
NEW YORK, NY 10016

CREAMS; SKIN LOTIONS; TEETH CLEANING LOTIONS; TOOTH CLEANING PREPARATIONS; TOOTH POLISH; TOOTHPASTE, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FOR: BLUSH; BLUSH PENCILS; BODY CREAMS; BODY EMULSIONS; BODY LOTIONS; BODY POWDER; BUBBLE BATH; COLOGNE; COMPACTS CONTAINING MAKE-UP; COTTON FOR COSMETIC PURPOSES; EAU DE COLOGNE; EAU DE PERFUME; EAU DE TOILETTE; EYE LOTIONS; EYE MAKE-UP; EYE PENCILS; EYE SHADOWS; FACE AND BODY CREAMS; FACE AND BODY GLITTER; FACIAL CLEANSERS; FACIAL CREAMS; FACIAL MAKE-UP; FACIAL WASHES; FALSE NAILS; FOAM BATH; LIP BALM; LIP GLOSS; LIPSTICK; LIPSTICK CASES; LIPSTICK HOLDERS; MAKE-UP; MOUTHWASHES; NAIL CARE PREPARATIONS; NAIL GLITTER; NAIL POLISH; PERFUMES; SKIN

FIRST USE 11-1-1996; IN COMMERCE 1-31-1997.

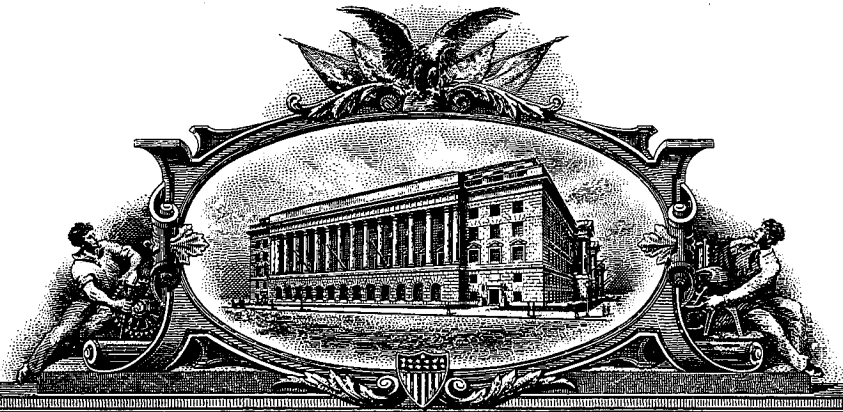
THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE FOREIGN WORDING IN THE MARK TRANSLATES INTO ENGLISH AS HAIR.

SER. NO. 78-964,585, FILED 8-31-2006.

TASNEEM HUSSAIN, EXAMINING ATTORNEY

7301107



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

June 16, 2011

THE ATTACHED U.S. TRADEMARK REGISTRATION 3,246,017 IS
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REGISTERED FOR A TERM OF *10 YEARS* FROM *May 29, 2007*

SAID RECORDS SHOW TITLE TO BE IN:

GMA ACCESSORIES, INC.

A NEW YORK CORPORATION

By Authority of the

Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

N. WILLIAMS

Certifying Officer



Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

United States Patent and Trademark Office

Reg. No. 3,246,017

Registered May 29, 2007

TRADEMARK
PRINCIPAL REGISTER

CAPELLI

GMA ACCESSORIES, INC. (NEW YORK CORPORATION)

1 EAST 33RD STREET

NEW YORK, NY 10016

FOR: ANTI-GLARE GLASSES; ANTI-REFLECTIVE LENSES; BEEPER CARRYING CASES; BINOCULARS; CASES FOR MOBILE PHONES; CASES FOR SPECTACLES AND SUNGLASSES; CHILDREN'S EYE GLASSES; DECORATIVE MAGNETS; EYEGLOSS CHAINS; EYEGASSES; FRAMES FOR EYEGASSES AND PINCE-NEZ; FRAMES FOR SPECTACLES AND SUNGLASSES; LAPTOP CARRYING CASES; LENSES FOR SUNGLASSES; MAGNIFYING GLASSES; SKI GLASSES; SPORTS

EYEWEAR; SPORTS GLASSES; SUNGLASSES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 12-1-2001; IN COMMERCE 4-24-2002.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE ENGLISH TRANSLATION OF THE WORD CAPELLI IN THE MARK IS HAIR.

SER. NO. 77-016,511, FILED 10-8-2006.

TASNEEM HUSSAIN, EXAMINING ATTORNEY



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

June 15, 2011

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THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH
REGISTRATION IS IN FULL FORCE AND EFFECT.

REGISTERED FOR A TERM OF 10 YEARS FROM *August 07, 2007*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant*

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office


P. SWAIN
Certifying Officer



Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

United States Patent and Trademark Office

Reg. No. 3,273,451

Registered Aug. 7, 2007

TRADEMARK
PRINCIPAL REGISTER

CAPELLI

GMA ACCESSORIES, INC. (NEW YORK CORPORATION)
1 EAST 33RD STREET
NEW YORK, NY 10016

FOR: BATH TOYS; BATHTUB TOYS; BEAN BAG DOLLS; BEAN BAGS; BENDABLE TOYS; CASES FOR PLAY ACCESSORIES; CHILDREN'S PLAY COSMETICS; DOLLS AND ACCESSORIES THEREFOR; DRAWING TOYS; INFLATABLE MATTRESSES FOR RECREATIONAL USE; INFLATABLE TOYS; NOVELTY ITEMS, NAMELY, FAKE TEETH; PARAFOILS; PARTY FAVORS IN THE NATURE OF SMALL TOYS; PLAY FIGURES; PLAY HOUSES; PLAY TENTS; PLUSH TOYS; SAND TOYS; SPORT BALLS; SQUEEZE TOYS; STUFFED TOYS; SWIM FLOATS FOR RECREATIONAL USE; TOY ARTIFICIAL FINGERNAILS; TOY BAKEWARE AND

COOKWARE; TOY BOXES; TOY CLOCKS AND WATCHES; TOY FILM CARTRIDGES AND VIEWERS; TOY FURNITURE; TOY HOUSES, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 12-1-1996; IN COMMERCE 3-30-1997.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE ENGLISH TRANSLATION OF THE WORD CAPELLI IN THE MARK IS HAIR.

SER. NO. 77-010,143, FILED 9-29-2006.

TASNEEM HUSSAIN, EXAMINING ATTORNEY



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

June 21, 2011

THE ATTACHED U.S. TRADEMARK REGISTRATION 3,241,184 IS
CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY
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REGISTRATION IS IN FULL FORCE AND EFFECT.

REGISTERED FOR A TERM OF 10 YEARS FROM *May 15, 2007*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant*

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office


T. WALLACE
Certifying Officer



Int. Cl.: 24

Prior U.S. Cls.: 42 and 50

Reg. No. 3,241,184

United States Patent and Trademark Office

Registered May 15, 2007

TRADEMARK
PRINCIPAL REGISTER

CAPELLI

GMA ACCESSORIES, INC. (NEW YORK CORPORATION)
1 EAST 33RD STREET
NEW YORK, NY 10016

FOR: BATH LINEN; BATH SHEETS; BATH TOWELS; BEACH TOWELS; BED BLANKETS; BED LINEN; BED SHEETS; BED SPREADS; BLANKET THROWS; CHENILLE FABRIC; CHILDREN'S BLANKETS; CHILDREN'S TOWELS; CLOTH COASTERS; CLOTH NAPKINS FOR REMOVING MAKE-UP; COMFORTERS; CONTOURED MATTRESS COVERS; COTTON BASE MIXED FABRICS; COTTON FABRIC; COVERED RUBBER YARN FABRICS; CREPE CLOTH; CRIB BUMPERS; CRIB CANOPIES; CURTAIN FABRIC; CURTAIN LOOPS OF TEXTILE MATERIAL; CURTAINS; CURTAINS MADE OF TEXTILE FABRICS; DIAPER CHANGING MATS; DIAPER CHANGING PADS NOT OF PAPER; DINING LINENS; DISH CLOTHS; DRAPERIES; DUST RUFFLES; DUVET COVERS; DUVETS; EIDERDOWN COVERS; EIDERDOWNS; FABRIC DIAPER STACKERS; FABRIC FLAGS; FABRIC FOR BOOTS AND SHOES; FABRIC OF IMITATION ANIMAL SKIN; FABRIC TABLE RUNNERS; FABRIC TABLE TOPPERS; FABRIC VALANCES; FABRIC WINDOW COVERINGS AND TREATMENTS, NAMELY CURTAINS, DRAPERIES, SHEERS, SWAGS AND VALANCES; FACE TOWELS; FEATHER BEDS; FELT AND NON-WOVEN TEXTILE FABRICS; FIBERGLASS FABRICS FOR TEXTILE USE; FIREPROOF UPHOLSTERY FABRICS; FITTED TOILET LID COVERS; FLANNEL; FLAX FABRICS; FRIEZE; GAUZE FABRIC; GIFT WRAP OF FABRIC; HAND TOWELS; HAND-TOWELS MADE OF TEXTILE FABRICS; HEMP BASE MIXED FABRICS; HEMP YARN FABRICS; HOUSEHOLD LINEN; INORGANIC FIBER MIXED FABRICS; JEANS FABRIC; JERSEY FABRICS FOR CLOTHING; JERSEY MATERIAL; JUTE FABRICS; KITCHEN LINENS; KITCHEN TOWELS; KNITTED FABRICS; KNITTED FABRICS OF CHEMICAL-FIBER YARN; KNITTED FABRICS OF COTTON YARN; KNITTED FABRICS OF WOOL YARN;

LABELS OF CLOTH; LAP RUGS; MIXED FIBER FABRICS; NARROW WOVEN FABRICS; NET CURTAINS; NYLON FABRIC; OIL CLOTHS; PILLOW CASES; PILLOW COVERS; PILLOW SHAMS; PILLOWCASES; PLACE MATS OF TEXTILE MATERIAL; POLYESTER FABRIC; POT HOLDERS; PUFFS; QUILTS; RAMIE FABRIC; RAYON FABRIC; RECEIVING BLANKETS; REGENERATED FIBER YARN FABRICS; RUBBERIZED CLOTHS; SACK-CLOTH; SAIL CLOTH; SEMI-SYNTHETIC FIBER FABRICS; SHAMS; SHOWER CURTAINS; SILK-COTTON MIXED FABRICS; SYNTHETIC FIBER FABRICS; TABLE CLOTHS NOT OF PAPER; TABLE LINEN; TAFFETA; TAPESTRIES OF TEXTILE; TERRY TOWELS; TEXTILE FABRIC OF ANIMAL SKINS IMITATIONS; TEXTILE FABRICS FOR HOME AND COMMERCIAL INTERIORS; TEXTILE FABRICS FOR LINGERIE; TEXTILE FABRICS FOR THE MANUFACTURE OF CLOTHING; TEXTILE LABELS; THROWS; TICKING FABRIC; TOWEL SETS; TOWELS; TRACED CLOTHS FOR EMBROIDERY; TRICOT QUILTS; TULLE; UNFITTED FABRIC FURNITURE COVERS; UPHOLSTERY FABRICS; VELVET; WASH CLOTHS; WASHCLOTHS; WASHING GLOVES; WASHING MITTS; WINDOW CURTAINS; WOOL BASE MIXED FABRICS; WOOL YARN FABRICS; WOOLEN FABRIC; WOOLEN BLANKETS; WORSTED FABRICS; WOVEN FABRICS; ZEPHYR FABRIC, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 12-1-1997; IN COMMERCE 2-9-1998.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE FOREIGN WORDING IN THE MARK TRANSLATES INTO ENGLISH AS HAIR.

SER. NO. 77-017,351, FILED 10-10-2006.

TASNEEM HUSSAIN, EXAMINING ATTORNEY

7301107



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:
UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

June 22, 2011

THE ATTACHED U.S. TRADEMARK REGISTRATION 3,322,312 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
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REGISTERED FOR A TERM OF 10 YEARS FROM *October 30, 2007*

SAID RECORDS SHOW TITLE TO BE IN:

GMA ACCESSRIES, INC.

A NEW YORK CORPORATION

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office


P. R. GRANT

Certifying Officer



Int. Cl.: 26

Prior U.S. Cls.: 37, 39, 40, 42 and 50

United States Patent and Trademark Office

Reg. No. 3,322,312

Registered Oct. 30, 2007

TRADEMARK
PRINCIPAL REGISTER

CAPELLI

GMA ACCESSORIES, INC. (NEW YORK CORPORATION)

1 EAST 33RD STREET
NEW YORK, NY 10016

FOR: BARRETTES; BASKET CLASPS; BELT BUCKLES NOT OF PRECIOUS METAL; BELT CLASPS; BOBBIN LACE; BOBBY PINS; BONNET PINS; BROOCHES; EYELETS; FABRIC TISSUE BOX COVERS; HAIR ACCESSORIES, NAMELY, CLAW CLIPS; HAIR ACCESSORIES, NAMELY, SNAP CLIPS; HAIR ACCESSORIES, NAMELY, TWISTERS; HAIR BANDS; HAIR BOWS; HAIR BUCKLES; HAIR CLIPS; HAIR CURL CLIPS; HAIR ORNAMENTS; HAIR PINS; HAIR RIBBONS; HAIR SCRUNCHIES; HAT ORNAMENTS NOT OF PRECIOUS METAL; LACE; ORNAMENTAL RIBBONS MADE OF TEX-

TILES; PONYTAIL HOLDERS, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 12-1-1991; IN COMMERCE 12-18-1991.

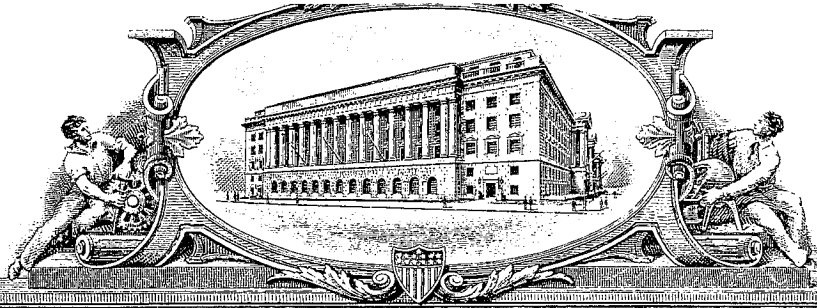
THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE FOREIGN WORDING IN THE MARK TRANSLATES INTO ENGLISH AS HAIR.

SEC. 2(F).

SER. NO. 77-009,900, FILED 9-28-2006.

TASNEEM HUSSAIN, EXAMINING ATTORNEY



THE UNITED STATES OF AMERICA

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UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

June 22, 2011

THE ATTACHED U.S. TRADEMARK REGISTRATION 3,241,182 IS
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PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM *May 15, 2007*

SAID RECORDS SHOW TITLE TO BE IN:

GMA ACCESSORIES, INC.

A NEW YORK CORPORATION

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

P. R. GRANT
Certifying Officer



Int. Cl.: 14

Prior U.S. Cls.: 2, 27, 28 and 50

United States Patent and Trademark Office

Reg. No. 3,241,182

Registered May 15, 2007

TRADEMARK
PRINCIPAL REGISTER

CAPELLI

GMA ACCESSORIES, INC. (NEW YORK CORPORATION)
1 EAST 33RD STREET
NEW YORK, NY 10016

FOR: BRACELETS; CHOKERS; CLOCKS; COSTUME JEWELRY; EARRINGS; GEMSTONES; GOLD AND ITS ALLOYS; JEWEL CHAINS; JEWELRY; JEWELRY CHAINS; JEWELRY FOR THE HEAD; NECK CHAINS; NECKLACES; ORNAMENTAL PINS; PICTURE FRAMES OF PRECIOUS METAL; PRECIOUS GEMSTONES; RINGS BEING JEWELRY; SEMI-PRECIOUS GEMSTONES; SILVER AND ITS ALLOYS; WATCHES, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 2-1-1993; IN COMMERCE 4-22-1993.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE FOREIGN WORDING IN THE MARK TRANSLATES INTO ENGLISH AS HAIR.

SER. NO. 77-016,426, FILED 10-7-2006.

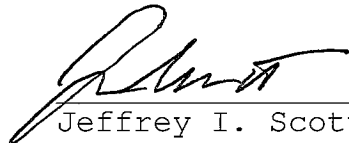
TASNEEM HUSSAIN, EXAMINING ATTORNEY

Mark: CAPPELLI
STRAWORLD
Serial No.: 77-965, 616
Class (es): 18, 25

PROOF OF SERVICE

I, Jeffrey I. Scott , hereby certify that the Reply Brief in Support of Motion to Dismiss Counterclaim, with supporting declaration and exhibits is being deposited with the United States Postal Service on June 28, 2011, postage pre-paid, addressed to the following:

Michael James Cronen, Esq.
Zimmerman & Cronen, LLP
1330 Broadway, Ste. 710
Oakland, California 94612



Jeffrey I. Scott, Esq.